

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA

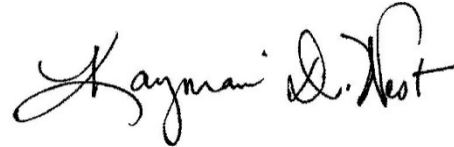
Joshua James Lindsey,)	C/A No.: 5:15-cv-03319-PMD-KDW
)	
Plaintiff,)	
)	REPORT AND RECOMMENDATION
v.)	
)	
Lt Johnnie Bryant,)	
)	
Defendant.)	
)	

Plaintiff, proceeding pro se and *in forma pauperis*, brought this action alleging violations of his constitutional rights pursuant to 42 U.S.C. § 1983. On March 10, 2016, Defendant filed a Motion for Summary Judgment. ECF No. 31. As Plaintiff is proceeding pro se, the court entered an order on March 11, 2016, pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975), advising Plaintiff of the importance of such motions and of the need for him to file an adequate response. ECF No. 32. Plaintiff was specifically advised that if he failed to respond adequately by April 14, 2016, Defendant's Motion may be granted, thereby ending Plaintiff's case against him. *Id.* Notwithstanding the specific warning and instructions set forth in the court's *Roseboro* order Plaintiff failed to respond to Defendant's Motion for Summary Judgment.

On April 20, 2016, the court ordered Plaintiff to advise the court whether he wished to continue with the case and to file a response to the Motion for Summary Judgment by May 20, 2016. ECF No. 38. Plaintiff filed no response. As such, it appears to the court that he does not oppose Defendant's Motion and wishes to abandon his action. Based on the foregoing, the undersigned recommends Plaintiff's action be dismissed with prejudice for failure to prosecute. *See* Fed. R. Civ. P. 41(b); *Davis v. Williams*, 588 F.2d 69, 70 (4th Cir. 1978) (noting that a court deciding whether to dismiss a case under Fed. R. Civ. P. 41(b)

must balance the policy of deciding cases on their merits against “sound judicial administration.” In so doing, the court must weigh: 1) plaintiff’s responsibility for failure to prosecute, 2) prejudice to defendant from delay, 3) history of delay, and 4) effectiveness of lesser sanctions.); *see also Ballard v. Carlson*, 882 F.2d 93, 95-96 (4th Cir. 1989) (noting and applying *Davis* factors in dismissing case under Fed. R. Civ. P. 41(b)); *Chandler Leasing Corp. v. Lopez*, 669 F.2d 919, 920 (4th Cir. 1982) (same). Based upon the above, and taking into account the factors in *Davis*, *Ballard*, and *Chandler*, the undersigned recommends this action be dismissed with prejudice for failure to prosecute pursuant to Fed. R. Civ. P. 41(b).

IT IS SO RECOMMENDED.

A handwritten signature in black ink, appearing to read "Kaymani D. West". The signature is fluid and cursive, with the first name "Kaymani" being more prominent than the last name "West".

May 26, 2016
Florence, South Carolina

Kaymani D. West
United States Magistrate Judge

**The parties are directed to note the important information in the attached
“Notice of Right to File Objections to Report and Recommendation.”**